

REMARKS

Claims 9 – 29 are pending in this application. By this Amendment, claims 9, 16 and 23 are amended. Support for amended claims can be found, for example, in Figs. 16-19. No new matter is added.

Examiner's Interview

Applicant appreciates the courtesies extended to Applicant's representative during the telephonic interview conducted on September 13, 2005.

During the interview, Applicant's representative discussed the Advisory Action dated August 29, 2005 and requested Examiner Vanaman to clarify his position as the Amendment After Final Rejection dated August 17, 2005 was previously agreed by the Examiner during a personal interview on July 12, 2005. Examiner Vanaman stated that the amendments to the claims (e.g., use of "approximately" and "near") were confusing and indefinite. Applicant's representative then suggested proposed amendments to help clarify the language (e.g., remove the terms "approximately" and "near" and amend the claims as "wherein the differential unit is located at a rear axle of the vehicle"). Examiner Vanaman was receptive this amendment and stated that the proposed amendment appears to be patentable distinct over the applied references. Examiner Vanaman further agreed that the current combination of references would be difficult to sustain with the new claim amendments. As such, Applicant has amended claims 9, 16 and 23, as agreed during the interview.

Accordingly, Applicant respectfully requests allowance of claims 9-12, 15-19, 23-26 and 29.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 9, 10, 12, 15, 16, 17, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullican et al., (hereinafter "Mullican") U.S. 5,887,880 in view of Vin et al. (hereinafter "Vin") U.S. 4,039, 037. This rejection is respectfully traversed.

As discussed and agreed by the Examiner, Mullican and Vin, individually or in combination, fail to disclose or suggest, *inter alia*, "the differential unit is located at a rear axle of the vehicle", as recited in claims 9, 16 and 23.

The Examiner admits that Mullican fails to teach or suggest "a single segment drive shaft that transfers drive torque between an output and a differential". Yet, the Examiner attempts to overcome the admitted deficiencies of Mullican by arguing that Vin teaches an output 3 connected to a gear drive transfer 6, 7 including a differential device, and having an input element, connected with a single segment drive shaft 5 between output 3 and the differential device.

However, the single segment drive shaft 5 of Vin is completely different from the claimed invention. In particular, Vin teaches that the differential unit is connected to the gear box 2 near the front end of the vehicle, rather than the differential unit being located at a rear axle of the vehicle.

Further, the Examiner alleges that it would have been obvious to one of ordinary skill in the art "to provide the drive scheme taught by Vin to the vehicle wheels of Mullican for the purpose of providing a greater drive force". However, Applicant submits that there is no motivation to combine the teachings of Vin with the teachings of Mullican with any expectation of success, at least because Mullican (related to suspension system vehicles used to haul cargo) is not directed to a power transfer device, whereas Vin is directed to a drive train for a vehicle. That is, one

would have to substantially alter and/or destroy the structure of Mullican to employ the drive train of Vin. Thus, the Examiner has not identified any teachings or suggestion, where Mullican and/or Vin that will lead one skilled in the art to look to Vin in order to employ a drive scheme adapted to drive a plural set of rear wheels.

For at least these reasons, Applicant respectfully submits that the combination of Mullican and Vin do not disclose or suggest "a single segment drive shaft that transfers drive torque between set output and set differential, wherein the differential unit is located approximately near the rear of the vehicle", as recited in claims 9 and 16.

Claims 10, 12, 15, 17, 19 and 22 which are dependent upon independent claims 9 or 16, are likewise allowable over Mullican and Vin at least for the reasons discussed above with respect to independent claims 9 and 16. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullian in view of Vin and Schwenk et al. (hereinafter "Schwenk") U.S. 3,951,225. The rejection is respectfully traversed.

As discussed above, Mullican and Vin, individually or in combination, fail to disclose or suggest the claimed invention as found in independent claim 9 and 16, the independent claim from which the rejected claims depend.

Further, Mullican, Vin or Schwenk, individually or in combination, fail to teach or suggest "a differential being a half-shaft differential immovably supported by a frame and having opposed swing axles extended from said differential unit to said wheels", as recited in claims 11 and 18.

The Examiner relies upon Schwenk for an alleged teaching of a half-shaft differential that immovably supports the frame structure, and opposed swing axles

extending from the differential unit. However, Schwenk does not cure the deficiency as set forth above because one of ordinary skill in the art would not have been motivated to combine the teachings of Mullican and Vin with the teachings of Schwenk without destroying one or more of the references. That is, Schwenk discloses that the carrier elements 16, 17 connected to drive shaft 35, 36 are welded to the ends of the transverse axle element (col. 2, line 51-55), which would lead one skilled in the art to substantially alter the structure of Schwenk to combine the structure of Mullican and Vin. Thus, the Examiner has not adequately supported the selection and combination of Mullican, Vin and Schwenk to render obvious that which Applicant has claimed. The Examiner's conclusory statement that it would have been obvious to provide "a single drive axle system as taught by Schwenk, in place of the drive axle scheme taught by the modifying reference to Vin, using a differential and a pair of swing axes instead, for the purpose of reducing the number of moving parts between the front and rear of the vehicle" does not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability and cannot be resolved on subjective belief and unknown authority. Simply stating that the motivation for combining Mullican, Vin and Schwenk is "for the purpose of reducing the number of moving parts" is an insufficient explanation for the alleged combination. Thus, it is respectfully requested that the rejection be withdrawn.

For at least these reasons, Applicant respectfully submits that Mullican, Vin and Schwenk, individually or in combination, fail to disclose or render obvious the features recited in independent claims 9, 16 and 23. Claims 10-15, 17-22 and 24-29, which depend from the independent claims are likewise distinguished over the applied art for at least the reasons discussed as well as for the additional features

they recite. Reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

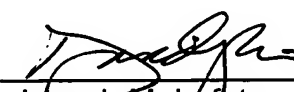
In view of the above amendments and remarks, reconsideration of the rejections and allowance of claims 9-29 is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particulariy, extension of time fees.

Respectfully submitted,

Dated: September 14, 2005

By:  Reg. 48 p78
for Joseph M. Lafata,
Reg. No. 37,166

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

JML/DJC/krf